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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Linda S. Mansfield, Mary Rossano, Lio  
Murphy, and Ruth Vrable

Serial No. 09/513,086 Group Art Unit: 163

Filing Date: February 24, 2000

Title: VACCINE TO CONTROL EQUINE PROTOZOAL  
MYELOENCEPHALITIS IN HORSES

Examiner: Joseph Woitach

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Commissioner of Patents and Trademarks

Washington, D.C. 20231

AMENDMENT UNDER 37 C.F.R. § 1.116(b)

Dear Sir:

In response to the Office Action dated March  
13, 2002, the applicants remark as set forth below.

REMARKS

Claims 4-9, 13-17, 23-28, 45, 46, 49, and 50  
are pending. No claims are allowed.

The applicants have recently become aware of  
PCT WO 01/80885 A2 ('885) to Bigbie et al. (Int'l. Appl.  
No. PCT/US01/40527, filed April 13, 2001) which the  
applicant's believe corresponds to a U.S. Application  
currently pending before the U.S. Patent and Trademark

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Linda S. Mansfield, Mary Rossano, Alice Morphy and Ruth Venable  
 Application No.: 09 / 513,086 Group No.: 1632  
 Filed: 02/24/00 Examiner: J. Woitach

For: VACCINE TO  
 CONTROL EQUINE  
 PROTOZOAL  
 MYELOENCEPHALITIS  
 IN HORSES

**RESPONSE UNDER  
 37 C.F.R. § 1.116  
 EXPEDITED PROCEDURE  
 EXAMINING GROUP**

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## AMENDMENT OR RESPONSE AFTER FINAL REJECTION—TRANSMITTAL

1. Transmitted herewith is an amendment after final rejection (37 C.F.R. § 1.116) for this application.

**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\***

(When using Express Mail, the Express Mail label number is mandatory;  
 Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

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37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10\*

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"

(mandatory)

**TRANSMISSION**

☐ transmitted by facsimile to the Patent and Trademark Office.

Signature

Date: 05/09/02Tammi L. Taylor

(type or print name of person certifying)

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"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

(Amendment or Response After Final Rejection—Transmittal [9-20]—page 1 of 4)



NOTE: Response to Final Rejection—Avoiding Extension Fees "In patent applications wherein a three month Shortened Statutory Period (SSP) is set for response to a Final Rejection, the response would best be filed within two months of the date of the Office Action. If filed within two months, any Advisory Action mailed after the SSP expires will reset the SSP to expire on the date of the Advisory Action for extension fee purposes, but never more than six months from the date of the Final Rejection." Notice of Nov. 30, 1990 (1122 O.G. 571 to 591). See M.P.E.P. § 714.13, 6th ed., rev. 3.

## STATUS

### 2. Applicant is

- ☐ a small entity. A statement:
- ☐ is attached.
  - ☐ was already filed.
- ☒ other than a small entity.

## EXTENSION OF TERM

NOTE: As to a Supplemental Amendment filed in response to a final office action, the Notice of December 10, 1985 (1061 O.G. 34-35) states:

"If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run."

### 3.

(complete (a) or (b), as applicable)

- (a) ☐ Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. § 1.17(a)(1)-(4)) for the total number of months checked below:

| Extension<br>(months)                 | Fee for other than<br>small entity | Fee for<br>small entity |
|---------------------------------------|------------------------------------|-------------------------|
| <input type="checkbox"/> one month    | \$ 110.00                          | \$ 55.00                |
| <input type="checkbox"/> two months   | \$ 400.00                          | \$ 200.00               |
| <input type="checkbox"/> three months | \$ 920.00                          | \$ 460.00               |
| <input type="checkbox"/> four months  | \$ 1,440.00                        | \$ 720.00               |

Fee: \$\_\_\_\_\_

If additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$\_\_\_\_\_

OR

- (b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

## FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

| (Col. 1)   |  | (Col. 2)                              |  | (Col. 3)         | SMALL ENTITY |               | OTHER THAN A<br>SMALL ENTITY |          |               |
|--|--|---------------------------------------|--|------------------|--------------|---------------|------------------------------|----------|---------------|
| CLAIMS<br>REMAINING<br>AFTER<br>AMENDMENT                          |  | HIGHEST NO.<br>PREVIOUSLY<br>PAID FOR |  | PRESENT<br>EXTRA | RATE         | ADDIT.<br>FEE | OR                           | RATE     | ADDIT.<br>FEE |
| TOTAL * 15   |  | MINUS ** 50                           |  | =                | ×\$9=        | \$            |                              | ×\$18=   | \$ -0-        |
| INDEP. * 3   |  | MINUS *** 17                          |  | =                | = \$42=      | \$            |                              | = \$84=  | \$ -0-        |
| <input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM |  |                                       |  |                  | + \$140=     | \$            |                              | + \$280= | \$ -0-        |
|  |  |                                       |  |                  | TOTAL        | \$            | OR                           | TOTAL    | \$ 0.00       |
|  |  |                                       |  |                  | ADDIT. FEE   | \$            |                              |          |               |

\* If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20."

\*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3."

The "Highest No. Previously Paid For" (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

**WARNING:** See 37 C.F.R. § 1.116.

(complete (c) or (d), as applicable)

(c) ☒ No additional fee is required.

OR

(d) ☐ Total additional fee required is \$ \_\_\_\_\_

## FEE PAYMENT

5. ☐ Attached is a ☐ check ☐ money order in the amount of \$ \_\_\_\_\_

☐ Authorization is hereby made to charge the amount of \$ \_\_\_\_\_

☐ to Deposit Account No. \_\_\_\_\_

☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should not be included on this form as it may become public.

☐ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

### FEE DEFICIENCY

NOTE: Where there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the case. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).

6. ☒ If any additional extension and/or fee is required, charge Account No. 13-610

### AND/OR

- ☒ If any additional fee for claims is required, charge Account No. 13-0610

Reg. No.: 20,931

Tel. No.: (517 ) 347-4100

Customer No.: 21036

  
SIGNATURE OF PRACTITIONER

Ian C. McLeod  
(type or print name of practitioner)

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